

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE:	§	Chapter 11
	§	
QUALITY INFUSION CARE, INC.	§	Case No. 10-36675
	§	
DEBTOR.	§	

QUALITY INFUSION CARE	§	
	§	
Plaintiff,	§	
vs.	§	Adversary No. _____
	§	
NATIONWIDE HEALTH PROPERTIES, INC., NHP HOUSTON MOB LLC, AND ROBERT G. NOONAN	§	
	§	
Defendants	§	
	§	
vs.	§	
	§	
JAMES RUTHERFORD AND LINDA L. RUTHERFORD	§	
	§	
Third-Party Defendants	§	

NOTICE OF REMOVAL OF CIVIL ACTION

Defendants Nationwide Health Properties, Inc. ("Nationwide") and NHP Houston MOB, LLC ("NHP", and collectively with Nationwide, the "Defendants"), respectfully submit this Notice of Removal, removing the case styled *Quality Infusion Care, Inc. v. Nationwide Health Properties, Inc., NHP Houston MOB LLC, and Robert G. Noonan v. James Rutherford and Linda L. Rutherford*, Cause No. 2008-48084 currently pending in the 133rd Judicial District of Harris County, Texas, including all claims and causes of action therein (the "State Court Litigation"), to the United States District Court for the Southern District of Texas, Houston Division (the "District Court"), for reference to the United States Bankruptcy Court for the

Southern District of Texas, Houston Division (the "Bankruptcy Court"). The grounds in support of this Notice of Removal are as follows:

1. Pursuant to 28 U.S.C. § 1452(a), any party to a claim or cause of action may remove the claim or cause of action to the Federal District Court where such civil action is pending if such District Court has jurisdiction of such claim or cause of action under 28 U.S.C. § 1334. Section 1334 provides that the "district courts shall have original but not exclusive jurisdiction of all civil proceedings arising under title 11, or arising in *or related to cases under title 11*." 28 U.S.C. § 1334(b) (emphasis added). The standard for "related to" jurisdiction is broad. "Cases 'related to' the bankruptcy case are those whose outcome could have any conceivable effect on the estate being administered in bankruptcy." *In re Morrison*, 555 F.3d 473, 479 (5th Cir. 2009). The removed civil action is related to a pending chapter 11 bankruptcy case styled *In re Quality Infusion Care, Inc.*, Case No. 10-36675, originally filed on August 3, 2010, pending in the Bankruptcy Court before the Honorable Jeff Bohm.

2. The Notice of Removal is timely under Rule 9027(a)(2).

3. Simultaneously with the filing of this Notice of Removal of Civil Action, Defendants filed a motion to lift the automatic stay seeking authorization to continue the removed civil action against the Debtor in the Bankruptcy Court. Defendants will not continue the removed civil action against the Debtor or property of the Debtor's estate until the Bankruptcy Court rules on the motion to lift stay.

4. Pursuant to Bankruptcy Local Rule 9027-1(a), the names and addresses of all of the parties are as follows:

Plaintiffs:

Quality Infusion Care
c/o its counsel:

Robert D. Green
440 Louisiana Street, Suite 1930
Houston, Texas 77002
(713) 654-9222

Gregg K. Saxe
6671 Southwest Freeway, Suite 111
Houston, Texas 77074
(713) 995-5733

Defendants:

**NATIONWIDE HEALTH PROPERTIES, INC. AND NHP HOUSTON
MOB L.L.C., AND ROBERT G. NOONAN**

c/o their counsel

Joe C. Holzer
Michael D Morfey
Timothy A. Davidson II
Andrews Kurth LLP
600 Travis, Suite 4200
Houston, Texas 77002
713-220-4200

Third-Party Defendants:

JAMES RUTHERFORD AND LINDA L. RUTHERFORD

c/o their counsel

Robert D. Green
440 Louisiana Street, Suite 1930
Houston, Texas 77002
(713) 654-9222

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COMPASS BANK
Lisa A. Powell
Mr. Chevazz G. Brown
Jackson Walker LLP
1401 McKinney, Suite 1900
Houston, Texas 77010
(713) 752-4246

As required by Bankruptcy Local Rule 9027-1(a), service of process has been accomplished on the Defendants and Third-Party Defendants. As required by Bankruptcy Local Rule 9027-1(a), the names, addresses and telephone numbers of the parties' counsel are set forth above.

5. Furthermore, in accordance with 28 U.S.C. § 1446 and Bankruptcy Rules 9027(b) and 9027(c), the Defendants are promptly serving a copy of this Notice of Removal on all parties to the State Court Litigation, and filing a copy of this Notice of Removal with the clerk of the court presiding over the State Court Litigation.

6. This proceeding is a core proceeding under 28 U.S.C. § 157(b)(2)(A) and (O). The Defendants consent to the entry of a final judgment by the Bankruptcy Court.

ATTACHMENTS

7. Copies of all documents required to be filed pursuant to 28 U.S.C. 1446(a) and Federal Rule of Bankruptcy Procedure 9027(a)(1) and Bankruptcy Local Rule 9027-1(b) are attached hereto as **Exhibit A**.

CONCLUSION

WHEREFORE, PREMISES CONSIDERED, the Defendants respectfully requests that the above referenced State Court Litigation pending in the 133rd Judicial District of Harris County, Texas, including all claims and causes of action thereto, be removed in its entirety to this Court pursuant to 28 U.S.C. § 1452(a) and Bankruptcy

Rule 9027 and 28 U.S.C. § 1332. The Defendants also requests such other and further relief as may be just and proper.

Respectfully submitted this 22nd day of September, 2010.

ANDREWS KURTH LLP

By: /s/ Timothy A. Davidson

Joe C. Holzer

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Attorneys for NATIONWIDE HEALTH
PROPERTIES, INC., AND NHP HOUSTON MOB
LLC.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on the following parties via United States first class mail on this 22nd day of September, 2010.

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/s/ Joseph Rovira
Joseph Rovira